



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2017-0266; FRL-9970-64-Region 1]

#### **Air Plan Approval; NH; Approval of Recordkeeping and Reporting Requirements and Single Source Order**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. The revisions establish recordkeeping and reporting obligations for sources of air pollution. Additionally, we are approving an order limiting emissions of volatile organic compounds from a facility in the State. This action is being taken in accordance with the Clean Air Act.

**DATES:** This direct final rule is effective **[Insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse comments by **[Insert date 30 days after date of publication in the Federal Register]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2017-0266 at <https://www.regulations.gov>, or via email to [mcconnell.robert@epa.gov](mailto:mcconnell.robert@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio,

video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Bob McConnell, Environmental Engineer, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05-02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912; (617) 918-1046; [mcconnell.robert@epa.gov](mailto:mcconnell.robert@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

**Table of Contents**

- I. Background and Purpose
- II. Description and Evaluation of State’s Submittals
  - a. Env-A 900: Owner or Operator Recordkeeping and Reporting Obligations
  - b. VOC Order for Sturm Ruger & Company
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. Background and Purpose**

On February 10, 2017, NH DES submitted a single source order limiting emissions of volatile organic compounds (VOCs) from Sturm Ruger & Company as a SIP revision request.

On May 11, 2017, NH DES submitted a state regulation identified as Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, as a SIP revision request. A description of these submittals and our evaluation of them appears below in Section II of this preamble. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of these rules or on the VOC Order, and if that provision may be severed from the remainder of the rule or Order, EPA may adopt as final those provisions of the rule or Order that are not the subject of an adverse comment.

## **II. Description and Evaluation of State's Submittals**

### *a. Env-A 900: Owner or Operator Recordkeeping and Reporting Obligations.*

On May 11, 2017, NH DES submitted a state regulation identified as Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, as a SIP revision request. New Hampshire provided additional material supporting this request to EPA by letter dated September 14, 2017. EPA previously approved a prior version of Env-A 900 within a direct final rule published on November 5, 2012. 77 FR 66388. Since then, the following changes have been made to Env-A 900.

New Hampshire amended Env-A 907.01 by including specific language outlining the types of general information that should be reported, such as facility name, physical location, mailing address, and operating time covered by the report. The State also added a requirement that the source indicate whether the report is a revision to a previously submitted report.

New Hampshire revised sections Env-A 907.02 and .03 in a number of ways affecting non-SIP pollutants, such as hazardous air pollutants and carbon dioxide, and so only portions of

the revisions are being incorporated into the New Hampshire SIP. New Hampshire clarified which portions of Env-A 900 are to be made part of the SIP within their September 14, 2017 correspondence to EPA. Of relevance to criteria pollutant reporting which is subject to SIP approval, within revised Env-A 907.02, the State clarified the definition of “emissions unit,” and also provided clarification of which sources are subject to the annual reporting requirement, and which sources are exempt. The State also specifies which pollutant emissions must be reported, and lists what information must be reported. The provisions of revised Env-A 907.03 now address annual compliance certifications for Title V permittees, which is not required to be part of the SIP and was therefore withdrawn by New Hampshire’s September 14, 2017 letter mentioned above.

New Hampshire made a minor revision to Env-A 907.04 which identifies recordkeeping requirements for unclassifiable processes, and made a minor change to the form required for reporting by certain coating and printing facilities.

We have reviewed New Hampshire’s changes to Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, and determined that they are acceptable. Additionally, the updated rule meets the anti-backsliding requirements of section 110(l) of the CAA in that it will not interfere with any applicable requirement concerning attainment and reasonable further progress, or with any other applicable requirement of the CAA. The regulation we are approving is not less stringent than the version of the rule we previously approved. Therefore, we are approving the updated Env-A 900 regulation, with the exception of the portions that were withdrawn, into the New Hampshire SIP.

c. *VOC Order for Sturm Ruger & Company*

On February 10, 2017, New Hampshire submitted a revised order establishing reasonably available control technology (RACT) for control of VOCs for Sturm Ruger & Company located in Newport, NH. EPA most recently approved a previous version of RACT for this facility on August 21, 2014. 79 FR 49458. Subsequently, the company added 13 dewaxing pre-heat kilns, the exhaust from which is controlled by afterburners that achieve a minimum of 99% destruction of VOCs. The revised order provides operational requirements for the afterburners, including a required minimum operating temperature, a calibration schedule for the thermocouple and temperature controller on the afterburners, and recordkeeping requirements.

Other changes made to the order reflect recent changes made to New Hampshire's VOC regulations. For example, the emission rate for rustproofing operations provided in section 3.b of the order was lowered from 3.5 to 2.8 lbs VOC/gallon of coating in accordance with Env-A 1212.04(a). Additionally, the limits for camouflage coatings in section 3.d of the order were also lowered. Our review of the updated order indicates that the proposed changes are acceptable. Additionally, the updated order meets the requirements of section 110(l) of the CAA in that it will not interfere with any applicable requirement concerning attainment and reasonable further progress, or with any other applicable requirement of the CAA. Therefore, we are approving the updated order into the New Hampshire SIP.

### **III. Final Action**

EPA is approving portions of New Hampshire's revised regulation Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, and RACT Order ARD-03-001 issued to Sturm Ruger & Company, as revisions to the New Hampshire SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective **[Insert date 60 days after date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days after date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days after date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference portions of New Hampshire regulation Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, and RACT Order ARD-03-001, which are described in the

amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov), and/or at the EPA Region 1 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.

## **V. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **insert date 60 days after date of publication in the Federal Register**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 26, 2017.

Deborah A. Szaro,  
Acting Regional Administrator,  
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

### **Subpart EE—New Hampshire**

2. In § 52.1520:

- a. In paragraph (c), amend the table by revising the entry “Env-A 900”: and
- b. In paragraph (d), amend the table by:
  - i. Removing two entries “Sturm, Ruger & Company, ARD-03-001” and “Sturm, Ruger & Company, Order No. ARD-03-001”; and
  - ii. Adding an entry to the end of the table entitled “Sturm Ruger & Company”.

The revision and addition read as follows:

#### **§ 52.1520 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

#### **EPA-APPROVED NEW HAMPSHIRE REGULATIONS**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date <sup>1</sup></b>	<b>Explanations</b>
**	*	*	*	**
Env-A 900	Owner or Operator Obligations	7/18/2015	<b>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</b>	The following sections withdrawn by state and not part of approved SIP: Env-A 907.01(d) and (e); 907.02(a)(1), (d)(1) a. and c., (2), and (e); 907.03; 911.04(b) and (c); 911.05.
**	*	*	*	**

<sup>1</sup> In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(d) *EPA-approved State Source specific requirements.*

**EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS**

<b>Name of source</b>	<b>Permit No.</b>	<b>State effective date</b>	<b>EPA approval date <sup>2</sup></b>	<b>Additional explanations/§52.1535 citation</b>
**	*	*	*	**
Sturm Ruger & Company	ARD-03-001	2/2/2017	[Insert <u>date of publication in the Federal Register</u> ], [Insert <u>Federal Register</u> citation]	VOC RACT Order

<sup>2</sup> In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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[FR Doc. 2017-24540 Filed: 11/13/2017 8:45 am; Publication Date: 11/14/2017]